

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
TZVI WEISS, et al., :
: :
Plaintiffs, : Case No. 05-CV-4622 (DLI) (RML)
- against - :
: :
NATIONAL WESTMINSTER BANK PLC, :
: :
Defendant. :
-----X
NATAN APPLEBAUM, et al., :
: :
Plaintiffs, :
: :
- against - : Case No. 07-CV-916 (DLI) (RML)
NATIONAL WESTMINSTER BANK PLC, :
: :
Defendant. :
-----X

NOTICE OF CROSS-APPEAL

Notice is hereby given that National Westminster Bank Plc (“NatWest”), defendant in the above-captioned actions, hereby cross-appeals to the United States Court of Appeals for the Second Circuit from such portions of the District Court’s order, dated March 31, 2016, ECF No. 338 (the “Order”),¹ which was made final on the date judgment was entered on March 31, 2019, ECF No. 416, that denied NatWest’s motion to dismiss or for summary judgment based on lack of personal jurisdiction.

NatWest cross-appeals from the Order because it is unclear whether the Court of Appeals’ holding in *Swatch Grp. Mgmt. Servs. Ltd. v. Bloomberg L.P.*, 756 F.3d 73, 92-93 (2d Cir. 2014), that a party in whose favor judgment was entered lacks standing to file a cross-appeal

¹ Unless otherwise noted, all citations are to the docket *Weiss et al., v. National Westminster Bank Plc*, No. 05 Civ. 4266 (DLI) (RML).

to challenge an adverse interlocutory order (but may challenge such interlocutory orders as alternative grounds for affirmance) also applies to an interlocutory order addressing the non-merits defense of personal jurisdiction. *See, e.g., New Hampshire Ins. Co. v. Sphere Drake Ins. Ltd.*, 51 F. App'x 342, 344 (2d Cir. 2002) (holding defendants who won below “waived any objections based on personal jurisdiction” including by “failing to appeal the district court’s ruling on the issue”); *Koupetoris v. Konkar Intrepid Corp.*, 535 F.2d 1392, 1394 (2d Cir. 1976) (considering cross-appeal of district court order finding personal jurisdiction over defendant, notwithstanding that defendant was granted judgment on other grounds); *Hanly v. Powell Goldstein, L.L.P.*, 290 F. App'x 435, 437 (2d Cir. 2008) (same). Accordingly, NatWest files this cross-appeal solely to preserve its right to appeal from the Order with respect to personal jurisdiction.

Dated: New York, New York
April 26, 2019

CLEARY GOTTLIEB STEEN & HAMILTON LLP

By:



Jonathan I. Blackman
One Liberty Plaza
New York, New York 10006
(212) 225-2000

Attorneys for Defendant National Westminster Bank Plc